IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.894 OF 2006

Shri Virendra Vrijlal
Seth & Ors. .. Petitioners.
Vs.
The State of Maharashtra & Anr. .. Respondents.

Mr.Milind Desai i/b Ganesh Chavan for the petitioners.
Mr.U.V.Nikam A.P.P. for the State.
Mr.Prakash Wagh for respondent no.2.

CORAM : D.B.BHOSALE, J.

DATED : 11TH JULY, 2006

P.C.:

. Leave to amend the affidavit of respondent no.2 is granted. Amendment to be carried out forthwith.

2. Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for respondent no.2.

3. By this petition, the petitioners have prayed for quashing of the proceedings in C.C.No.3113/PW/2005 pending before the Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. This case was registered against the petitioners on the basis of the complaint lodged by respondent no.2 - wife of petitioner no.3

under sections 498-A, 406 read with 34 of I.P.C. Petitioner nos.1 and 2 and respondent no.2 are present in the court. Petitioner no.3 is presently out of India and residing at the address mentioned in the title of the petition. The learned counsel appearing for the parties state that respondent no.2 - complainant and the petitioners have amicably sorted out all the differences and respondent no.2 has also filed affidavit dated 16.6.2006 to that effect stating that she does not desire to prosecute the petitioners in the aforestated case. I perused the petition and its annexures as also the affidavit filed by respondent no.2 - wife. Respondent no.2 has specifically stated in the affidavit that petitioner no.3 has decided to obtain divorce by mutual consent by filing appropriate divorce petition before the Family Court. Respondent no.2 states that she has received four Pay Orders, as stated in paragraph 6 of the affidavit, of Rs.20 Lakhs as full and final settlement between the parties. In view thereof, both stated that by consent the proceedings in C.C.No.3113/PW/2005 arising from C.R.No.617/2002 registered at Juhu police station under section 498-A, 406 read with 34 of I.P.C. be quashed. The Supreme Court in the case of **B.S.Joshi and Anr. Vs. State of Haryana and Anr. 2003(4) SCC 675** in similar situation in paragraph 14 and 15 of the judgment held thus:

> "14. There is no doubt that the object of introducing Chapter XX-A containing section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code."
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> 15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code."

4. Keeping these observations in view and considering that the parties have amicably sorted out all the differences and settled the dispute I find no reason and ground to reject the prayer made by the petitioners and respondent no.2 in particular. In the circumstances the proceedings in C.C.No.3113/PW/2005 pending before the Metropolitan Magistrate, 22nd Court, Andheri, Mumbai are quashed.

5. Mr.Desai, learned counsel for the petitioners undertakes on behalf of petitioner no.3 that he would co-operate with respondent no.2 for filing appropriate divorce petition before the Family Court and for that

purpose, if necessry, he would come down to Mumbai within two months from today. The undertaking given by the learned counsel, after taking instructions from petitioner nos.1 and 2, is accepted. Petitioner no.3 is, accordingly, directed to co-operate with respondent no.2 for filing appropriate divorce petition before the Family Court within two months from today. The Family Court shall pass appropriate orders on the said petition in accordance with law. This petition is, accordingly, disposed of.

(D.B.Bhosale, J.)